

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 986 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

LALLUBHAI HARJIBHAI VASAVA

Appearance:

MR HARDIK C RAWAL for Petitioner
MR JS BRAHMBHATT for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 29/03/2000

ORAL JUDGEMENT

Learned Mr.Raval is appearing for the petitioner
corporation and learned advocate Mr. Brahmbhatt is
appearing for the respondent workman.

Rule. Service of rule is waived by Mr.Brahmbhatt,

learned advocate appearing for the respondent workman. With the consent of the learned advocates appearing for the parties, the matter is taken up for final hearing today itself.

In this petition under Article 226 and 227 of the Constitution of India, the petitioner corporation has challenged judgment and award passed by the labour Court, Vadodara dated 25.5.1999 whereby the petitioner corporation was directed to reinstate the respondent workman on his original post and to stop three increments of the respondent workman without cumulative effect. The facts leading to the filing of the present petition, in short, are as under :

The respondent herein was working as a conductor in the petitioner corporation. He was involved in certain financial irregularities byway of not issuing tickets after collecting bus fare. Charge sheet was given to him and after holding departmental inquiry on proved misconduct was dismissed from service. The respondent approached the labour court, Vadodara by way of reference NO. 242 of 1994 and the labour court, under its judgment and award dated 25.5.1999 directed the petitioner corporation to reinstate the respondent workman with a further direction to stop the three annual increments of the respondent workman without cumulative effect.

I have heard the learned advocates appearing for the respective parties. During the course of hearing, it has been submitted by Mr. Raval, the learned advocate appearing for the petitioner that the punishment of stoppage three annual increments without cumulative effect is no punishment. According to him, the labour court ought to have imposed some more punishment having recurring effect. On the other hand, learned advocate Mr. Brahmhatt, the learned advocate appearing for the respondent workman has submitted that the bus which was conducted by the respondent workman was checked within five kms distance from the starting point and there was no dishonest intention on the part of the respondent workman. He has submitted that in exercise of the powers under section 11-A of the Industrial Disputes Act, 1947, the labour court found that the impugned order of punishment was harsh and unjustified and, therefore, under the impugned award, the labour court directed his reinstatement without back wages and, therefore, now this Court should not interfere with the same. However, ultimately, he has left this aspect at the discretion of this Court.

Having heard the learned advocates for the parties and after considering the facts and circumstances of the case, I am of the opinion that the punishment imposed by the respondent requires some modification. Looking to the gravity of misconduct committed by the respondent workman, I am of the opinion that it would be just and proper to stop the five annual increments of the respondent workman with cumulative effect as a punishment instead of the punishment of stoppage of three annual increments without cumulative effect. Therefore, the award passed by the labour court requires modification to that effect. Rest of the award passed by the labour court does not call for any interference/modification. Accordingly, I pass the following order.

The petition is partly allowed. The award passed by the labour court in Reference No. 242 of 1994 dated 25.5.1999 is modified as under:

The petitioner is directed to reinstate the respondent workman in service on his original post without back wages and with continuity of service. The petitioner is further directed to stop five annual increments of the respondent workman with cumulative effect.

The petitioner corporation is further directed to reinstate the respondent workman in service with continuity of service within one month from today and is also directed to pay to the respondent workman full current wages with effect from 25th May, 1999 till the date of his actual reinstatement within six weeks from today. Rule is made absolute to the extent indicated hereinabove with no order as to costs.

29.3.2000. (H.K.Rathod,J.)

Vyas